

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Amend sections: 3682.2, 3682.3, 3702.1,
3702.2, 3702.3, 3702.4,
and 3717

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2017-1109-01E

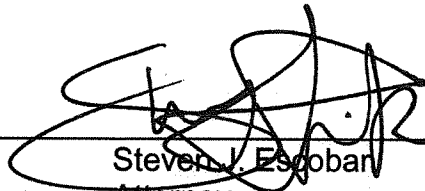
OAL Matter Type: Emergency (E)

This emergency rulemaking by the State Water Resources Control Board amends sections 3682.2, 3682.3, 3702.1, 3702.2, 3702.3, 3702.4, and 3717 in title 23 of the California Code of Regulations. Sections 3682.2, 3682.3, 3702.1, 3702.2, 3702.3, and 3702.4 are being amended in response to the amendment of Water Code section 13628, subdivision (a), which changed the certification renewal period from two years to three years. Section 3717 is being amended to reduce various operator, provisional operator, and operator-in-training fees.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 11/16/2017 and will remain in effect until revised by the Board pursuant to Water Code section 13628.

Date: November 16, 2017



Steven J. Escobar
Attorney

Original: Eileen Sobeck
Copy: Wes Wilkinson

For: Debra M. Cornez
Director

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2017-1109-01E
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For use by Office of Administrative Law (OAL) only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 16 2017
1:58 PM

2017 NOV -9 A 9:20

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Wastewater Operator Certification Fees	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND
TITLE(S) CCR Title 23	REPEAL

3682.2, 3682.3, 3702.1, 3702.2, 3702.3, 3702.4, & 3717

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Water Code sec. 13628(e)</u>	

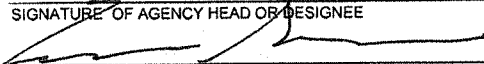
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			

7. CONTACT PERSON Wes Wilkinson	TELEPHONE NUMBER (916) 341-5131	FAX NUMBER (Optional) (916) 341-5734	E-MAIL ADDRESS (Optional) wes.wilkinson@waterboards.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 10/30/17
TYPED NAME AND TITLE OF SIGNATORY Eileen Sobeck, Executive Director	

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ENDORSED APPROVED

NOV 16 2017

Office of Administrative Law

per agency request
S.T.E. 11-16-2017

TITLE 23. WATERS
DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL
WATER QUALITY CONTROL BOARDS
CHAPTER 26. WASTEWATER TREATMENT PLANT CLASSIFICATION, OPERATOR
CERTIFICATION, AND CONTRACT OPERATOR REGISTRATION

Article 4. Operators-in-Training

§ 3682.2. Issuance of an Operator-in-Training Certificate.

- (a) Within 30 days of receipt of a complete application and payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator-in-training certificate or inform the applicant of the reason the certificate will not be issued. The operator-in-training certificate shall be issued in the name of the applicant and mailed to the chief plant operator at the mailing address of the wastewater treatment plant where the applicant will be in training.
- (b) An operator-in-training certificate shall include:
 - (1) the name and grade level of the operator-in-training;
 - (2) the issue and expiration dates of the certificate;
 - (3) the name of the wastewater treatment plant where the operator-in-training will be training;
 - (4) the State Water Board seal;
 - (5) the name, "State Water Resources Control Board," and
 - (6) the signature of a State Water Board member or designee.
- (c) The Office of Operator Certification may refuse to issue an operator-in-training certificate if it determines that the applicant has committed any act in violation of this chapter.
- (d) Except as provided in subdivision (e), operator-in-training certificates shall be valid for two-three years.
- (e) The expiration date of Grade II through Grade V operator-in-training certificates shall not exceed the expiration date of the applicant's passed examination results.

Authority cited: Sections 1058 and 13627, Water Code.

Reference: Section 13627, Water Code.

§ 3682.3. Renewal of an Operator-in-Training Certificate.

- (a) An applicant for renewal of an operator-in-training certificate must have completed the minimum amount of education prescribed in section 3687 for certification as an operator at the grade level for which a renewed operator-in-training certification is requested.
- (b) Except as provided in section 3682.4(d), a valid, unexpired Grade I operator-in-training certificate may be renewed once for a two-year-three-year period provided the operator-in-

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training has passed an examination at the Grade I level or higher before the expiration of the initial certificate and the operator-in-training's examination results have not expired.

- (c) A valid, unexpired Grade II through Grade V operator-in-training certificate may be renewed once for a ~~two-year~~ three-year period provided the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired.
- (d) Following an initial renewal pursuant to subdivisions (a) or (b), and except as provided in section 3682.4(d), a valid, unexpired Grade I through Grade V operator-in-training certificate may be renewed repeatedly for additional ~~two-year~~ three-year periods if the operator-in-training has passed an examination at that grade level or higher and the operator-in-training's examination results have not expired, and the chief plant operator submits a plan for the operator-in-training to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687. The plan shall include:

- (1) the chief plant operator's original signature verifying:

- (i) the applicant's qualifying experience acquired at that wastewater treatment plant; and
 - (ii) a description of the duties that the applicant performs and/or will be performing at that wastewater treatment plant.

- (2) information regarding qualifying experience the applicant may have acquired at another wastewater treatment plant;

- (3) the applicant's original signature;

- (4) the average number of hours per week the applicant will be training at the wastewater treatment plant to acquire qualifying experience;

- (5) an estimate of the amount of time required for the applicant to acquire the qualifying experience necessary to meet the minimum qualifications for certification at the appropriate grade level under section 3687; and

- (6) additional information, evidence, statements, or documents to support the application for renewal as requested by the Office of Operator Certification.

- (e) At least 60 days before the expiration of an operator-in-training certificate, the Office of Operator Certification shall send a written notice of the expiration date to the chief plant operator at the wastewater treatment plant where the operator-in-training is training and to the operator-in-training. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.

- (f) An application for renewal shall include:

- (1) the applicant's name, mailing address, grade level, and classification or title;

- (2) the name, contact information, and signature of the chief plant operator of the wastewater treatment plant where the operator-in-training is in training;

- (3) the renewal fee prescribed in article 10; and

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(4) if the operator-in-training is applying for a renewal certificate pursuant to subdivision (c), a plan containing the information required by subdivision (c) submitted by the chief plant operator at the wastewater treatment plant where the operator-in-training is training.

(g) Within 30 days of receipt of an application, the Office of Operator Certification shall notify the applicant in writing whether the renewal application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application. If the applicant does not correct the deficiency within 60 days from the date of the notice of deficiency, the application shall be denied.

Authority cited: Sections 1058 and 13627, Water Code.

Reference: Sections 13627 and 13628, Water Code.

Article 8. Certification of Wastewater Treatment Plant Operators

§ 3702.1. Issuance of Certificates.

(a) An operator certificate shall include:

(1) the operator's name and grade level;

(2) the certificate number;

(3) the issue and expiration dates of the certificate;

(4) the State Water Board seal;

(5) the name, "State Water Resources Control Board," and

(6) the signature of a State Water Board member or designee.

(b) Upon successful completion of the application and examination process and within 30 days of payment of the certification fee prescribed in article 10, the Office of Operator Certification shall issue an operator certificate. If an operator is employed at more than one wastewater treatment plant, the Office of Operator Certification shall issue duplicate operator certificates to the operator for posting at each wastewater treatment plant.

(c) The Office of Operator Certification may refuse to issue a certificate if it determines that the applicant has committed any act in violation of this chapter.

(d) Operator certificates shall be valid for ~~two~~ three years from the date of issue.

Authority cited: Sections 1058, 13627 and 13628, Water Code.

Reference: Sections 13627 and 13628, Water Code.

§ 3702.2. Application for Certificate Renewal.

(a) An operator certificate may be renewed repeatedly for ~~two-year~~ three-year periods.

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- (b) At least 60 days before the expiration of an operator certificate, the Office of Operator Certification shall send a written notice of the expiration date to the operator. Failure to receive a notice of the expiration date does not relieve the operator of the responsibility for renewing a certificate on or before the expiration date.
- (c) An application for renewal shall include:
- (1) the applicant's name, mailing address, grade level, certificate number, and classification or title;
 - (2) if employed as an operator, the name, telephone number, and mailing address of the wastewater treatment plant where employed, and the name of the chief plant operator; and
 - (3) the renewal fee prescribed in article 10.
- (d) Within 30 days of receipt of a renewal application, the Office of Operator Certification shall notify the applicant in writing whether the application is complete or deficient. If there is a deficiency, the Office of Operator Certification shall inform the applicant in writing of the specific requirements necessary to complete the application.
- (e) If there is a deficiency, and the deficiency is not corrected before expiration of the certificate, the Office of Operator Certification shall not issue a renewal certificate. After the applicant pays the reinstatement fee prescribed in section 3717, the Office of Operator Certification shall issue a new certificate if the requirements of section 3702.4 are met.

Authority cited: Sections 1058, 13627 and 13628, Water Code.

Reference: Sections 13627 and 13628, Water Code.

§ 3702.3. Issuance of Renewal Certificate.

- (a) Within 30 days of receipt of a completed application for renewal and the renewal fee, the Office of Operator Certification shall issue a renewal certificate or inform the applicant of the reason the certificate shall not be issued.
- (b) The Office of Operator Certification may refuse to renew a certificate if it determines that the applicant has:
- (1) operated a wastewater treatment plant with an expired operator certificate;
 - (2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or
 - (3) committed any other act in violation of this chapter.
- (c) A renewal certificate shall include:
- (1) the operator's name and grade level;
 - (2) the certificate number;
 - (3) the issue date of the initial certificate and the expiration date of the renewal certificate;
 - (4) the State Water Board seal;

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- (5) the name, "State Water Resources Control Board;" and
- (6) the signature of a State Water Board member or designee.
- (d) The expiration date of a renewed certificate shall be ~~two~~three years from the expiration date of the certificate being renewed.

Authority cited: Sections 1058, 13627 and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

§ 3702.4. Reinstatement.

- (a) An expired operator certificate may be reinstated within one year following expiration if the applicant applies for reinstatement as prescribed in this section.
- (b) Experience acquired under the expired certificate shall be credited to the reinstated certificate.
- (c) An application for reinstatement shall include:
 - (1) all the information prescribed in section 3702.2;
 - (2) a signed statement regarding whether a certifying body or court, for any act associated with performing duties at a facility that treats wastewater in a state other than California, in a territory, or on land under the jurisdiction of an Indian tribe, provided the duties are comparable to the duties of an operator or contract operator at a wastewater treatment plant, has ever: taken final action to revoke or suspend the applicant's certification or registration; taken final action to discipline or impose administrative civil liability on the applicant or conducted an investigation regarding the applicant; or imposed civil or criminal liability upon the applicant; and
 - (3) the renewal and reinstatement fees prescribed in article 10.
- (d) The Office of Operator Certification may refuse to reinstate a certificate if it determines that the applicant has:
 - (1) operated a wastewater treatment plant with an expired operator certificate;
 - (2) operated a wastewater treatment plant at a grade level for which the applicant was not certified; or
 - (3) committed any other act in violation of this chapter.
- (e) The expiration date of a reinstated certificate shall be ~~two~~three years from the date of reinstatement of the certificate.
- (f) A certificate that has been expired for more than one year shall not be reinstated. Upon passing another examination at the appropriate grade level, an applicant whose certificate has been expired for more than one year may apply for a new certificate in accordance with section 3702.

Authority cited: Sections 1058, 13627 and 13628, Water Code.
Reference: Sections 13627 and 13628, Water Code.

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Article 10. Fees

§ 3717. Operator, Provisional Operator, and Operator-In-Training Fees.

- (a) Except for examination fees that are refundable pursuant to section 3700(e), all fees are nonrefundable.
- (b) Application fees for an examination are:

Grade I:	\$70
Grade II:	\$90
Grade III:	\$130
Grade IV:	\$140
Grade V:	\$140

Operator Examination Application Fee Schedule

<u>Grade</u>	<u>Application Fee</u>	<u>Re-examination Application Fee</u>
<u>I</u>	<u>\$70</u>	<u>\$35</u>
<u>II</u>	<u>\$90</u>	<u>\$45</u>
<u>III</u>	<u>\$130</u>	<u>\$65</u>
<u>IV</u>	<u>\$140</u>	<u>\$70</u>
<u>V</u>	<u>\$140</u>	<u>\$70</u>

- (c) Examination fees are:

Grade I:	\$70
Grade II:	\$90
Grade III:	\$220
Grade IV:	\$300
Grade V:	\$300

Operator Examination Fee Schedule

<u>Grade</u>	<u>Examination Fee</u>
<u>I</u>	<u>\$50</u>
<u>II</u>	<u>\$65</u>
<u>III</u>	<u>\$165</u>
<u>IV</u>	<u>\$225</u>
<u>V</u>	<u>\$225</u>

- (d) The provisional operator certification fee is ~~\$170~~ \$125. ~~Operator~~ Except as provided in subdivision (e), the operator and operator-in-training certification fees are:

Grade I:	\$170
Grade II:	\$230
Grade III:	\$300
Grade IV:	\$340
Grade V:	\$340

Fee Schedule for Operators and Operators-in-Trainings With a Single Certificate

<u>Grade</u>	<u>Certification Fee</u>	<u>Triennial Renewal Fee</u>
<u>I</u>	<u>\$125</u>	<u>\$150</u>
<u>II</u>	<u>\$170</u>	<u>\$150</u>
<u>III</u>	<u>\$225</u>	<u>\$150</u>
<u>IV</u>	<u>\$255</u>	<u>\$150</u>
<u>V</u>	<u>\$255</u>	<u>\$150</u>

(e) Operator and operator-in-training certification renewal fees are: Notwithstanding subdivision (d), the certification fees for those operators who are applying for, or hold, two or more valid, unexpired certifications issued by the State Water Board as a water treatment operator, distribution operator, or wastewater treatment plant operator are:

Grade I:	\$170
Grade II:	\$230
Grade III:	\$300
Grade IV:	\$340
Grade V:	\$340

Fee Schedule for Operators and Operators-in-Training With Multiple Certificates

<u>Grade</u>	<u>Certification Fee per Certificate</u>	<u>Triennial Renewal Fee per Certificate</u>
<u>I</u>	<u>\$95</u>	<u>\$110</u>
<u>II</u>	<u>\$125</u>	<u>\$110</u>
<u>III</u>	<u>\$170</u>	<u>\$110</u>
<u>IV</u>	<u>\$190</u>	<u>\$110</u>
<u>V</u>	<u>\$190</u>	<u>\$110</u>

(f) The reinstatement fee for all grades levels is \$100.

(g) The fee for replacing a lost, stolen, damaged, or destroyed certificate is \$50.

(h) Applicants for an examination waiver shall pay an examination waiver fee of \$100 in addition to the certification fee.

Authority cited: Sections 1058 and 13628, Water Code.

Reference: Sections 13627 and 13628, Water Code.